

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION**

ROBERT H. JOHNSON
Reg. #21275-075

PLAINTIFF

v.

No: 2:18-cv-00181 KGB-PSH

USA

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDATION

INSTRUCTIONS

The following Proposed Findings and Recommendation have been sent to United States District Judge Kristine G. Baker. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of this Recommendation. By not objecting, you may waive the right to appeal questions of fact.

DISPOSITION

Plaintiff Robert H. Johnson filed a *pro se* motion for an emergency protective order which was docketed as a civil rights complaint on December 14, 2018 (Doc. No. 1). The same day, the Court entered an order directing Johnson to submit the full \$400.00 filing and administrative fees or file a fully completed and signed IFP application within 30 days (Doc. No. 3). The Court also ordered Johnson to file an amended complaint describing his claims within 30 days. *See id.* Johnson was cautioned that failure to comply with the Court's order within that time could result in the dismissal of his case, without prejudice, pursuant to Local Rule 5.5(c)(2).

Johnson filed a notice of change of address on December 20, 2018, and a copy of the Court's December 14 order was mailed to him at his new address.¹ Because more than 30 days have passed, and Johnson has not complied with the December 14 order, the Court finds that this action should be dismissed without prejudice for failure to comply with Local Rule 5.5(c)(2) and failure to respond to the Court's order. *See Miller v. Benson*, 51 F.3d 166, 168 (8th Cir. 1995) (District courts have inherent power to dismiss *sua sponte* a case for failure to prosecute, and exercise of that power is reviewed for abuse of discretion).

It is therefore recommended that this lawsuit be dismissed without prejudice and that Johnson's motion for an emergency protective order be denied as moot.

DATED this 22nd day of January, 2019.



UNITED STATES MAGISTRATE JUDGE

¹ Johnson's file-marked notice of change of address sent to him at his new address was subsequently returned as undeliverable but other mail such as the Court's December 14 order was not. *See* Doc. No. 5.